

### **Title 3. Civil Rules**

#### **Chapter 1. Rules Applicable to All Civil Cases**

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#### **Rule 3.35. Standing pretrial orders**

##### **(a) Application of the pretrial orders**

Unless otherwise specified in these rules or modified by the judge to whom the case is assigned at the time of trial setting, the following standing orders will apply to:

- (1) All civil jury trials; and
- (2) With the exception of provisions for jury instructions and verdict forms, to all civil court trials.

##### **(b) Exhibits**

Each counsel, and any self-represented party, must prepare an index of all exhibits to be offered at trial, other than those to be used for impeachment or rebuttal, for submission with one extra copy to the courtroom clerk at the pretrial conference or on the first day of trial if no pretrial conference is scheduled. The index must identify as separate exhibits each discrete document or item to be offered at trial and the index must include a brief description of each exhibit sufficient to distinguish it from the other exhibits. These indices and copies of the exhibits must be exchanged by counsel, and any self-represented party, at least three court days before the pretrial conference or three court days before trial if a pretrial conference is not scheduled. The parties must meet and confer to eliminate duplicate exhibits and stipulate whenever possible to authenticity and admissibility. Failure to disclose or exchange a copy of any exhibit may result in its exclusion at trial. All objections to an exhibit must be in the form of a motion in limine pursuant to paragraph (e). Failure to file and serve a motion in limine objecting to an exhibit may waive all objections to that exhibit at trial.

##### **(c) Depositions and discovery responses**

- (1) Originals of all depositions to be used at trial must be lodged with the courtroom clerk at the pretrial conference or on the first day of trial if a pretrial conference is not scheduled. Counsel, and any self-

represented party, must meet and confer to edit depositions as necessary and make a good faith effort to resolve admissibility issues related to depositions.

- (2) If depositions, requests for admissions, interrogatory responses, or any other discovery responses, are to be used in lieu of live testimony at trial, the proponent must submit the excerpts to be used to opposing counsel, or any self-represented party, at least three court days before the pretrial conference, or three court days before trial if a pretrial conference is not scheduled. The parties must meet and confer on the admissibility of depositions, requests for admissions, interrogatory responses, or other discovery responses and whenever possible to authenticity and admissibility. Legal grounds for objections to such excerpts must be raised by motion in limine pursuant to subdivision (e).

**(d) Transcripts**

The parties must meet and confer concerning the proposed use of any video or audio presentation and stipulate whenever possible to the use of the presentation. Objections to any audio or video presentation or transcripts must be raised in a motion in limine pursuant to subdivision (e).

**(e) Motions in limine**

~~All motions in limine must be in writing and personally served upon opposing counsel or any self-represented party one court day before the pretrial conference or one court day before the first day of trial if a pretrial conference is not scheduled. In the discretion of the trial judge, motions in limine not served and filed in compliance with this rule might not be heard.~~

**(1) Applicability**

This rule does not apply to motions in limine in unlawful detainer, probate, family and juvenile cases.

**(2) Form and filing of motions**

Unless otherwise ordered by the trial judge, all motions in limine subject to this rule must be in writing and filed in the clerk's office at least three court days before the pretrial conference or the first day of trial if there is no pretrial conference. Reservation numbers are not required for motions in limine subject to this rule.

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**(3) Hearing**

Unless otherwise ordered by the trial judge, all motions in limine subject to this rule will be set for hearing. The trial judge shall determine the hearing date and time and how service of the motion is to be made. The timing and service requirements of the opposition and reply, if any, shall be at the discretion of the trial judge.

**(4) Courtesy copies**

Unless otherwise ordered by the trial judge, courtesy copies of any moving papers filed under this rule, as well as any opposition and reply papers, shall be delivered to the trial department on the date of filing.

**(f) Witnesses**

A list of all witnesses, including both expert and non-expert witnesses, to be called at trial, other than those to be called solely for impeachment or in rebuttal, must be personally served upon opposing counsel, or any self-represented party, three court days before the pretrial conference or three court days before trial if a pretrial conference is not scheduled and presented in triplicate to the courtroom clerk at the pretrial conference or on the first day of trial if no pretrial conference is scheduled.

**(g) Redaction of exhibits**

If medical, personal, or consumer records are involved, the parties are to delete any information that counsel, or any self-represented party, agree should not come into evidence, including insurance information, so that such information is not received by the jury. The proponent must then prepare clean copies of the records for submission into evidence. Any disagreements or legal grounds for objection to the records must be set forth in a motion in limine filed pursuant to subdivision (e).

**(h) Statement of the case**

Each counsel, and any self-represented party, must, in advance of the pretrial conference or the first day of trial if no pretrial conference is scheduled, meet and confer for the purpose of agreeing upon a brief non-argumentative summary of the factual nature of the case and a brief statement regarding any alleged injuries and damages for submission to the courtroom clerk at the pretrial conference or on the first day of trial if a pretrial conference is not scheduled.

**(i) Jury instructions**

Each counsel, and any self-represented party, must personally serve upon opposing counsel, or any self-represented party, three court days before the pretrial conference or the first day of trial if no pretrial conference is scheduled and submit a set of proposed jury instructions to the courtroom clerk at the pretrial conference or on the first day of trial if a pretrial conference is not scheduled. The submission of a list of jury instructions, without the proposed instructions, does not comply with this requirement. The full text of the proposed instructions must be provided including proposed language to complete any blank portions of such instructions and proposed formatting to include or exclude bracketed language in such instructions. Any proposed instruction that is not taken verbatim from jury instructions approved by the Judicial Council of California must include citations to the authorities upon which it is based.

**(j) Verdict forms**

At least three court days before the pretrial conference or the first day of trial if a pretrial conference is not scheduled, each counsel, and any self-represented party, must meet and confer for the purpose of agreeing upon a form of verdict or special verdict and submit the agreed upon or proposed verdict form, if no agreement has been reached, to the courtroom clerk at the pretrial conference or on the first day of trial if a pretrial conference is not scheduled.

**(k) Jury selection**

Supplemental voir dire questions and any proposed written juror questionnaire must be personally served upon opposing counsel or any self-represented party three court days before the pretrial conference or the first day of trial if no pretrial conference is scheduled and submitted to the courtroom clerk at the pretrial conference if one is scheduled, or on the first day of trial if a pretrial conference is not scheduled.

**(l) Glossary**

If the case involves technical or unusual vocabulary, the parties must meet and confer on the contents of a glossary of terms to be included and their definitions. If the case involves technical or unusual vocabulary a special glossary must be prepared and must be submitted, in duplicate, to the courtroom clerk at the pretrial conference, or on the first day of trial if a pretrial conference is not scheduled.

**(m) Electronic copies**

If ordered, counsel must submit to the court and all other parties, electronic copies of proposed juror questionnaires, jury instructions, and verdict forms in addition to printed versions required by this rule. Electronic copies must be in the format ordered by the court.

**(n) Consequences of noncompliance**

In the discretion of the trial judge, the consequences of noncompliance with an order made under this rule may include imposition of any sanction or order authorized by law including, without limitation, restricting evidence, continuing the trial, sending the case back for further case management, reopening discovery, excluding an exhibit, precluding the testimony of a witness, striking an instruction, [striking a motion in limine](#), or imposing sanctions.